



# *Town of Brookline*

## *Massachusetts*

October 6, 2020

### **Guidelines for Extended Outdoor Seating**

The Town's approval of the temporary extension of licensed premises by restaurants to accommodate outdoor seating related to the Covid-19 State of Emergency is subject to the following requirements:

- **Weather-permitting Extension of Outdoor Seating:** Outdoor seating will be permitted through December 7, 2020 (weather permitting). In the event of severe weather, the Town Administrator, through the Commissioner of Public Works, reserves the right to terminate extended outdoor seating on specific days or permanently prior to December 7, 2020.
- **Updated Documentation:**
  - o **Certificate of Liability Insurance:** Restaurants with Certificates of Liability due to expire before December 7, 2020 must submit an updated certificate of insurance.
  - o **Abutter Approval Letter:** Restaurants that were required to submit a letter of approval from abutting business and/or property owners must submit an updated letter of approval regarding the December 7, 2020 extension.
  - o **Updated Temporary License Agreement:** Restaurants that were required to enter into a Temporary License Agreement with the Town (e.g. because the premises extension utilizes the Town sidewalk) will be required to enter into an amended Temporary License Agreement reflecting the extended date.
- **Adequate Maintenance of the Public Way and ADA Accessibility:** In the event of ice or snow, restaurants with outdoor seating must ensure that the sidewalk is kept free and clear to a minimum of 36", but preferred to 48", in accordance with ADA accessibility requirements and the Town's [snow removal by-law](#). The Department of Public Works (DPW) will clear snow and ice from commercial area roadways and sidewalks where there is 6 feet of clearance, but restaurants are responsible for maintaining their outdoor seating areas and access to those areas, including sidewalks narrowed to less than 6 feet by outdoor seating furniture. The Town encourages restaurants to engage a qualified contractor to ensure that snow is removed in a timely manner. DPW will strive to preserve all outdoor seating platforms, barricades, furniture, etc., but cannot guarantee that outdoor seating materials will not be damaged in the snow and ice removal process. Restaurants with approved outdoor seating must provide the Town with a valid and reliable email address to receive prompt snow removal notifications. Outdoor seating areas should be placed close to existing sidewalk ramps. When that is not possible, restaurants may need to purchase ramps or request that the Town install asphalt ramps to ensure accessibility to outdoor seating areas.

- **Compliance with Outdoor Heating and Electrical Elements Regulations:**

- All outdoor heating devices must be Underwriters Laboratory (UL) listed.
- **Propane Heaters:** Through the Town's Liquid Propane (LP) Outdoor Patio Heating Appliance Use and Storage Pilot Program, propane heaters shall be allowed on the public way (i.e. sidewalks or parking spaces), subject to securing a permit through the Brookline Fire Department and compliance with the Fire Department's *Liquid Propane (LP) Outdoor Patio Heating Appliance Use and Storage Pilot Program Requirements* (see attached). This pilot program will end when the Town's temporary outdoor seating program concludes for the year. Permitting fees for this pilot program will be waived.
- **Electric Heaters:** The use of hardwired electrical heating appliances for outdoor seating areas must be permitted by the Town of Brookline's Electrical Inspector. Plug-in electrical heating elements will be permitted in the public way on a case-by-case basis. Plug-in electrical heating elements must meet the following requirements:
  - Must be used and located per the owner's manual, manufacturer's installation instructions and specifications.
  - Must be located on the ground at grade.
  - Shall be rated for outdoor use.
  - Shall be rated for damp or wet locations.
  - Cannot be located under a tent or canopy.
  - Cannot be located on a sidewalk.
  - Maintain all clearances to combustibles.
  - All electrical devices crossing sidewalks overhead must be a min 10ft clearance (use of trees and vegetation not permitted).
  - All electrical devices crossing sidewalks at grade must use ADA accessible pedestrian matting, cable covers or cable protector.
  - All electric heaters shall be equipped with an automatic shut-off safety feature.
  - Outdoor rated extension cords shall be used if allowed by manufacturer.
- **Location of Outdoor Heating Elements:** No heating elements are permitted under tents, canopies, or awnings. All heating elements must be located at a safe distance from tents, canopies, awnings, and other combustible materials per the manufacturer's technical specifications and in compliance with the Fire Department's *Liquid Propane (LP) Outdoor Patio Heating Appliance Use and Storage Pilot Program Requirements* (see attached). Additionally, all heating elements and associated equipment shall be placed in such a way that they do not create a safety hazard for the general public in utilizing the space or passing on the public way.
- **Outdoor Lighting Elements:**
  - Must be used and located per the owner's manual and manufacturer's installation instructions and specifications.
  - All electrical devices crossing sidewalks overhead must be a min 10ft clearance (use of trees and vegetation not permitted).
  - All electrical devices crossing sidewalks at grade must use ADA Accessible pedestrian matting, cable covers or cable protector.
  - Outdoor rated extension cords shall be used if allowed by manufacturer.

- **Properly Secured Tents and Canopies:** All tents and canopies must be less than 120 square feet and fit within the outdoor seating space authorized by the Town. Tents and canopies are not permitted on the public sidewalk. All tent and canopy legs must be weighted down with a minimum of 40 lbs., such that they do not move, blow over, or cause damage in severe weather or high winds. Tent and canopy weights and lines must be clearly visible and not pose a hazard. Restaurants are responsible to take down tents and secure loose items in advance of weather incidents. Anyone seeking to use tents or canopies exceeding 120 square feet must obtain a permit from the Building Department. Tents and canopies must be free and clear of all ignition sources. To avoid damage, in the event of high winds, ice or snow, tents and canopies should be removed promptly. To comply with state-mandated outdoor dining public health requirements, tents and canopies can only be sheltered on two sides (i.e. no more than two tent or canopy walls can be down at one time).
- **Compliance with Semi-Permanent Outdoor Seating Structure Requirements:** All barriers installed to protect or buffer dining areas from the traffic lane shall be movable, a maximum of 5 feet in height, enclose no more than three sides of the outdoor seating area, and be open and unobstructed along the sidewalk. The interior set up of this space may contain approved tables, chairs, umbrellas, and tents or canopies. No walls or roofs shall be constructed in this area. All lighting installations must comply with applicable Codes and Manufacturer's installation instructions.
- **Compliance with Restaurant Health and Safety Standards Outlined in the State's Reopening Plan:** These safety standards include but not limited to: face coverings, social distancing, size of party per table, distance between tables, as well as the frequent cleaning of all tables and chairs.
- Violations will result in the outdoor seating permit being rescinded.